

MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

February 18, 1997

The Capital Projects and Bond Oversight Committee met on Tuesday, February 18, 1997, at 1:00 p.m., in Room 131 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senators Tom Buford, Bob Leeper, and Denny Nunnelley; Representatives Drew Graham and Jim Wayne.

Guests: Bill Hintze, Earl Clements, Paula Moore-Carson, Geoff Pinkerton, Governor's Office for Policy and Management; Commissioner Armond Russ, Jim Abbott, Department for Facilities Management; Tom Howard, Kim Blitch, Bart Hardin, Office of Financial Management and Economic Analysis; Bonnie Howell, Finance and Administration Cabinet; Dr. William H. Martin, Melanie Bailey, Natural Resources and Environmental Protection Cabinet; Bob Bender, Department of Parks; Mary Allen, University of Kentucky; and Jack Affeldt, LRC.

LRC Staff: Mary Lynn Collins, Pat Ingram, Scott Varland, and Esther Robison.

Chairman Damron introduced Representative Drew Graham, a new Committee member, and stated that the Committee's other new member, Representative Paul Marcotte, was unable to attend the day's meeting.

Representative Wayne made a motion to approve the minutes of the January 28, 1997 meeting as submitted, and Senator Nunnelley seconded the motion. Motion passed by voice vote.

Chairman Damron said the following Correspondence items were provided:

1. The Kentucky Lottery Corporation provided its monthly financial report for

Chairman Damron said a staff update was provided in members' folders on the status of the Commonwealth Convention Center Expansion Project in Louisville. He said negotiations are ongoing between the Finance and Administration Cabinet, the State Fair Board, and private parties for private financing of a parking garage to be built under the expansion. He said those negotiations, which have already stalled the project for 6 months, are the cause of several concerns. First, he noted that the longer a project is delayed, the more expensive it becomes. Secondly, he said one of the selling points about the project made to the General Assembly in the 1995 Special Session was that the expansion project would expand the tax base and generate revenue to the Commonwealth to offset the cost of the bonds and the cost of the expansion. In addition, he noted several legislators had expressed concern to him that the Finance and Administration Cabinet and the State Fair Board were refusing to disclose the names of the private parties involved in the negotiation. He said, with the Committee's agreement, he planned to ask the Finance Cabinet and the State Fair Board to report on the project status at the Committee's March meeting, to discuss the parking structure, the need for it, and whether it warrants the further delay of the Commonwealth Convention Expansion project.

In response to a question from Representative Wayne, Mary Lynn Collins, Committee Staff Administrator, said that she had made an inquiry, on behalf of a legislator, to Finance and had been told they could not disclose the identity of any private parties involved in the negotiations.

Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management, said that it was the General Counsel for the Finance Cabinet who advised against disclosure, and he said he felt compelled to defer to that judgment. He said Ms. Collins apprised him that morning that Finance had decided not to disclose the parties with whom they are negotiating. He said he regretted that was all he could say today, and added that Finance Secretary John McCarty will be prepared to fully discuss this issue with the Committee next month.

Mr. Hintze indicated that the state has negotiated with several contractors and several financiers, which is part of the delay. He said that in September, when the Committee received an update on the project, the Administration believed the parking garage was not an essential component but would be a highly desirable addition to the project, particularly if it required no state financing. He said it is the Administration's

Representative Wayne said that parking rates in downtown have been kept low to draw people from the suburbs which creates the need for more parking spaces, adding to pollution and congestion problems, and discouraging use of the public transit system. He questioned whether there had been an environmental assessment on the proposed parking garage. He went on to say that it is a matter of public interest to know who is involved in the negotiations. He said there are a number of power players in Louisville who may own or have interest in real estate in the area surrounding the Convention Center, and who would benefit from additional low cost parking. Representative Wayne said there are very few statutory guidelines for the state to follow in leasing its property to private interests. The situation has been seen repeatedly at the Fairgrounds with Kentucky Kingdom and the Redbirds. He voiced concern that individuals can negotiate with the state privately, behind closed doors, on matters which affect larger interest groups than just those involved in the negotiations.

Representative Wayne said he wanted the Committee to be prepared for next month's meeting and made a motion that the Chair work with the Committee's Counsel to draft an Open Records request for specific information that would be helpful to the Committee, and if the request were denied, that the Chair request that LRC subpoena specific information on the Committee's behalf. The motion was seconded by Senator Leeper and adopted by unanimous voice vote.

Chairman Damron said 3 legislators had asked about the Commonwealth Convention Center and the proposed parking structure and asked that it be brought up by this Committee today. He acknowledged that the issue was raised with late notice to Secretary McCarty and Mr. Hintze, but the concerns were raised in the last 5 days or so.

Mr. Hintze said that Secretary McCarty is anxious to deal with the issue, and he stressed that another reason for the project delay has been Secretary McCarty's desire for and insistence on scrupulous adherence to the law.

Chairman Damron said he wanted Secretary McCarty to address several issues next month. First, he wanted to know the difference in the cost of a privately-owned parking facility built on state property versus a parking facility built on private land which would have to be purchased by a developer. He said he also wanted to know who made the decision not to use the state procurement code and not to engage in a competitive bidding process. A final issue he raised was Mr. Workman's testimony

Chairman Damron said the first item of New Business was a status report on the activities of the Heritage Land Conservation Fund (HLCF) Board, which oversees a land acquisition program for natural areas. Grants from the Fund are made to both state and local governments for land acquisition. Dr. William H. Martin, Chairman of the HLCF Board and Commissioner of the Department for Natural Resources, was introduced to give a presentation on how the program operates and what acquisitions have been made.

Dr. Martin said the HLCF Board was created by the 1990 General Assembly through the Heritage Land Conservation Act. The law contains 4 priorities for land acquisition: (1) natural areas that are unique and significant, (2) areas that are important for migratory birds, (3) areas that perform important natural functions such as protection of watersheds and wetlands, and (4) areas to be preserved in their natural state for public use for outdoor recreation and education. While no funding was provided by the 1990 General Assembly, the 1994 General Assembly established new funding sources for the land acquisitions: the state portion of the Unmined Minerals Tax, environmental fines and penalties, and proceeds from the sale of environmental license plates. Fifty percent of budgeted funds go to 5 state agencies: the Departments of Fish and Wildlife Resources and Parks, the Division of Forestry, the Nature Preserves Commission, and the Wild Rivers Program. The other 50% is awarded competitively to local governments, state colleges and universities, and state agencies for approved acquisitions.

Dr. Martin said in 1995 the HLCF developed its administrative regulations and established Board procedures to operate the program and approve projects. To date, the Fund has received nearly \$12 million. The Coal Marketing and Export Council receives \$400,000 each year from the receipts from the Unmined Minerals Tax. The Kentucky Environmental Education Council annually receives \$150,000 from environmental fines. The remaining funds are allocated for the acquisition of property from willing sellers. (Board statutes do not permit eminent domain to be exercised.) The Board has approved 30 parcels in 20 counties for a total of 15,000 acres.

Dr. Martin informed the Committee of a controversial issue currently before the HLCF Board. Several months ago Eastern Kentucky University (EKU) submitted a request to purchase mineral rights from Enterprise Coal Company for coal seams in the Lilley Cornett Woods in Letcher County. The mineral rights were not included when the property was purchased by the state in 1969. At its last meeting, the HLCF Board

Resources and Environmental Protection Cabinet (NREPC). Dr. Martin said that the HLCF Board will seek some assistance from the 1998 General Assembly, specifically for staff to track pending projects and ensure acquisitions are managed properly. The statute establishing the Board requires acquisitions to have management plans, and 10% of a project's funding is to be used for management of the property. Dr. Martin said this program is very important environmentally and economically to the state since it protects the environment and impacts tourism.

Chairman Damron thanked Dr. Martin and asked for a breakdown of program funds by source. Dr. Martin replied that on an annual basis approximately \$2 million comes from the Unmined Minerals Tax, \$1 million to \$2 million comes from fines and penalties, and approximately \$250,000 is received from the sale of the license plates.

Representative Wayne commended the program and asked if participating local governments are bound by state procurement rules and what type of monitoring takes place. Dr. Martin said that local governments are bound by state procurement rules and there is a memorandum of agreement between the HLCF Board and the local government. The memorandum of agreement grants the state a conservation easement so that the state has the ability to monitor the acquisition and stewardship of the land. In addition to applicants submitting a preliminary management plan and budget, participants are required to file a final resource management plan within 2 years. The HLCF Board has a stewardship committee in place to review management of the acquisitions. In response to a question from Representative Wayne, Dr. Martin said the Board's administrative costs are absorbed by the NREPC and something needs to be done to fund administrative costs by other means. Due to the number of pending projects, a great deal of administrative work is required. Dr. Martin reiterated the Board intends to ask for operating funds in the 1998 Session to provide for a staff person to keep track of the acquisitions, answer questions and make sure the land is managed as it should be.

Senator Buford asked Dr. Martin if \$1 million might be too much to pay for what is under the Lilley Cornett Woods. Dr. Martin replied that is why the HLCF Board has sent the application back to EKV and requested an appraisal. In response to a further question, Dr. Martin said Enterprise Coal owns a portion of the mineral estate and Kentucky River Coal owns the remainder. Senator Buford asked if there is a possibility the state could trade another location for this land. Dr. Martin said that has not been considered, but is worth pursuing. He said the seams of coal are of varying thickness,

Chairman Damron said the next item of business was a report of increase in square footage and amortization of cost of leasehold improvements for an existing state lease. Mr. Jim Abbott, Director, Division of Real Properties, reported on lease contract PR-3281, which provides space in Hopkins County utilized as a laboratory by the Department of State Police. This lease modification involves 3 actions taken to enhance the State Police laboratory to meet current operational needs. The first action involves acquiring an additional 2,860 square feet of supplemental office laboratory space on the floor above the existing lab, bringing the new total square footage to 7,435 square feet at the current rate of \$5.72 per square foot. The current lessor, Rocket Oil Company, is to pay all costs of general construction to prepare the new lab area, and will provide extra ductwork for 2 vent hoods. The second action involves extending the current lease contract for an additional 2 years, making the new lease expiration date June 30, 2004. The third action involves the amortization of approximately \$7,800 in additional lease-hold improvements. These improvements include establishment of a secure storage area for weapons and criminal evidence, an additional interior stairwell, and additional plumbing for the new lab space. This \$7,800 is being amortized over the entire lease term, making the rental rate per square foot \$5.85. Mr. Abbott said this rate is very good compared to other leased space in the area, which ranges from \$7.50 to \$9.55 per square foot.

Chairman Damron said that the Licensing and Occupations Committee was recently told by the Alcoholic Beverage Control (ABC) Board that the agency is looking for additional space across the state to store criminal evidence and confiscated weapons. He asked if it would be possible to share a facility such as this with the State Police. Mr. Abbott said he has provided the ABC Board with a listing of all properties currently under lease state-wide, and it is his understanding that they are evaluating those locations.

Chairman Damron said lease modifications of less than \$50,000 are to be reported after execution, but no Committee action is required.

Next on the agenda was the bond activity report from the Office of Financial Management and Economic Analysis (OFMEA). Mr. Tom Howard from OFMEA reported new School Building Revenue and Refunding Bonds, Series 1997, with state funding through School Facilities Construction Commission (SFCC) participation in annual debt service payments, for the following school districts:

c. Laurel County - with gross proceeds of \$8,000,000, to construct a new elementary school and to renovate and build additions to 2 other elementary schools. Annual SFCC debt service of \$56,345 and locally-funded debt service of \$712,057.

Chairman Damron said the Committee had asked in a previous meeting about SFCC's portion of savings generated from bond refundings. He asked staff if SFCC had responded. Ms. Collins said she had talked to Dr. Robert Tarvin, Executive Director for SFCC, and he indicated he was working on a response.

A motion was made by Senator Buford to approve the 3 new bond issues. The motion was seconded by Senator Leeper and passed by unanimous voice vote.

Chairman Damron said there was one 100% locally-funded school bond issue this month for the Somerset Independent School District in Pulaski County with gross proceeds of \$1,500,000. He said Committee staff had reviewed the bond issue and found it to be in compliance. There is no local school tax rate increase associated with the bond issue.

Chairman Damron said bond payee information for locally-funded school bonds must be provided to the Committee prior to issuance, but Committee action is not required.

Mr. Howard then provided a follow-up report (approval letter) on a conduit bond issue for the Kentucky Economic Development Finance Authority (KEDFA) - Hospital Revenue Bonds, Series 1997 with gross proceeds of \$150,000,000, for the Baptist Healthcare System Obligated Group. The Committee approved this issuance at its December 1996 meeting. Proceeds will finance new hospital facilities for Baptist Health Care and its affiliates at 5 hospitals throughout Kentucky. Sale date was January 22 and the issue closed on January 23. The securities are term bonds with a final maturity date of August 2031. This is a variable rate transaction with monthly resets, secured by a letter of credit from the Canadian Imperial Bank of Commerce in Los Angeles. The total interest cost is \$526,000, assuming the initial coupon of 3.5%, which was the first rate which was set on this issue. This issue is rated AA-/A-1+ by Standard & Poor's, AA/F1+ by Fitch. It was a negotiated sale, with Goldman Sachs acting as underwriter. Jones, Day, Reavis and Pogue are underwriter's counsel; National City Bank of Kentucky serves as bond trustee and master trustee; Harper, Ferguson, and Davis is the bond counsel; Wyatt, Tarrant and Combs is serving as special counsel to the

concerned the Department of Corrections' Underground Storage Tank (UST) Leak Detection System program. Mr. Hintze, Deputy State Budget Director, said this request will wind up a multi-year program. The Corrections Department received a \$499,200 appropriation in 1990 to address underground storage tank problems at correctional facilities statewide. The Department has expended almost all of these funds and is working on the final project from that source. This final project will cost more than the remaining funds from this appropriation. There is \$19,000 remaining and they need \$8,000 in additional funds to complete the project, an underground storage tank leak detection system at the Frankfort Career Development Center. Since normally a smaller project like this would be funded from a maintenance pool, Mr. Hintze said, it was determined that Corrections' maintenance pool was the appropriate place to make up the needed additional moneys rather than asking for funds from the state capital construction and equipment purchase contingency account.

Chairman Damron asked if there are other underground storage tanks that remain to be addressed by another pool of moneys. Mr. Armond Russ, Commissioner of Facilities Management (Finance and Administration Cabinet), replied that most of the state's storage tanks are taken care of, although there may be a few remaining that have not yet been discovered. This project completes a process that the state has been working on for 5 or 6 years. Mr. Hintze said if any additional tanks are found, their remediation can be funded through agency maintenance pools.

Senator Buford moved that this agency-funded scope increase be approved. The motion was seconded by Representative Graham and passed by unanimous voice vote.

Chairman Damron said staff had put together several news articles for the Committee's information. He also noted the Committee's regular meeting date has been changed to the third Tuesday of each month, and the next meeting would be Tuesday, March 18.

There being no further business to come before the Committee, the meeting was adjourned at 2:05 p.m.